

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ARC CONTROLS, INC.,)	
Plaintiff,)	
)	
v.)	
)	CASE NO. 1:19-cv-391-LG-RPM
)	
M/V NOR GOLIATH, <i>in rem</i> , and)	<i>Consolidated with:</i>
GOLIATH OFFSHORE HOLDINGS PTE.)	CASE NO. 1:19-cv-395-LG-RPM
LTD., <i>in personam</i>)	
_____)	

MEMORANDUM IN SUPPORT OF
EXPEDITED MOTION TO REDUCE COUNTER-SURETY BOND

Expedited Consideration Requested

MAY IT PLEASE THE COURT:

Defendants, M/V NOR GOLIATH, *in rem*, and GOLIATH OFFSHORE HOLDINGS PTE. LTD., *in personam* (collectively “Defendants” or “Goliath”), submit this memorandum in support of their Expedited Motion to Reduce Counter-Surety Bond. Goliath asks that this motion be considered on an expedited basis as upcoming interest payments on the counter-surety bond will soon be due, resulting in significant and unnecessary additional premiums if Goliath’s Motion is not considered and granted on an expedited basis. In support of this Motion, Goliath states the following:

1. In October of 2019, Goliath original moved this Court for a release of the M/V NOR GOLIATH which had been arrested by the various claimants who asserted maritime liens against the vessel. Goliath asked the Court to fix the principle sum of the bond at the total amount of the current plaintiffs’ claims fairly stated, plus interest at the rate of

six percent per annum, which Goliath calculated to be approximately \$5,103,552.59. Rec. Doc. No. 155.

2. In November of 2019, Goliath filed a Supplemental Motion, requesting that the bond amount be reduced, due to several settlements it entered into with various claimants, to \$3,841,651.78, which consisted of the total amount of the remaining plaintiffs' claims fairly stated, interest at 6% per annum, *custodia legis* fees, and filing and U.S. Marshal service fees. Rec. Doc. No. 183.
3. On November 26, 2019, after a hearing with all parties present, this Court granted the release of the M/V NOR GOLIATH and set a special bond in the amount of \$3,921,000.00 as sufficient security in respect to the alleged maritime lien claims filed by plaintiffs and intervenors in this matter pursuant to Rule (E)(5)(a) of the Supplemental Rules for Admiralty or Maritime Claims and authorized the Clerk of Court to accept Goliath's bond into the Court's Registry. Rec. Doc. No. 187.
4. On December 3, 2019, Goliath filed a Notice of Bond Reduction into the record, submitting a revised and reduced bond rider into the registry of the court totaling \$3,921,000.00. Rec. Doc. No. 188.
5. In February, 2020, Entier U.S.A., Inc. filed a motion to set aside the default and motion to intervene into this lawsuit to assert a maritime lien against Goliath. Rec. Doc. No. 220. That motion was granted on April 8, 2020. Rec. Doc. No. 249. Entier's Verified Complaint-In-Intervention was filed into the record on April, 10, 2020, asserting a claim of \$456,476.10. Rec. Doc. No. 250.
6. On October 12, 2020, Entier filed an Unopposed Motion to have its claim included under the Counter Security Bond, due in part to Goliath settlement several additional

claims against it. Rec. Doc. No. 373. Entier had not arrested the vessel and thus had not incurred any *custodia legis* fees.

7. Entier's Motion was granted on October 19, 2020 and its claim was included under the Counter-security Bond. Rec. Doc. No. 377
8. Since that time, Goliath has continued to settle out claims with various plaintiffs/intervenors, while other claimants have had their claims dismissed with prejudice. Rec. Doc. No. 499 and 501.
9. Goliath continues to incur significant costs in the form of interest payments on the bond it secured as sufficient security for the release of the M/V NOR GOLIATH, despite the fact that a vast majority of the claims against it have been settled and/or dismissed with prejudice.
10. Trial is currently set to begin on this matter on September 7, 2021.
11. Goliath now wishes to reduce the counter-security bond to accurately reflect the remaining claims in this litigation, along with *custodia legis fees*, and interest at 6% per annum which consists of the following:
 - a. Entier: \$456,476.10; who had no *custodia legis* fees. Rec. Doc. No. 250.
 - b. MARMAC, LLC: \$683,741.00; who had \$20,978.29 in *custodia legis* fees. Rec. Doc. No. 135.
 - c. Total of remaining Plaintiffs claims and *custodia legis* fees: \$1,161,195.39.
 - d. 6% interest per annum: \$69,671.72
 - e. **Appropriate Counter-Surety Bond = \$1,230,867.11.**
12. Thus, Goliath respectfully requests permission from this court to lower its special bond to **\$1,230,867.11** representing the total amount of the remaining plaintiffs' claims fairly

stated, interest at 6% per annum, *custodia legis* fees, and filing and U.S. Marshal service fees.

13. Upon the granting of this Motion, Goliath will have the appropriate Notice of Bond Reduction filed into this record within seven (7) days, along with attaching the Rider/Endorsement reflecting the new bond amount, as it has previously done in this matter. Rec. Doc. No. 188.

Respectfully submitted:

/s/Miles P. Clements

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-and-

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Counsel for Defendants M/V NOR GOLIATH, *in rem*, and GOLIATH OFFSHORE HOLDINGS PTE. LTD., *in personam*

Certificate of Service

I HEREBY CERTIFY that, on the 9th day of July, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, that service was accomplished through the Notice of Electronic Filing on Filing Users, and that service was accomplished on any party or counsel who is not a Filing User by other means in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

/s/Miles P. Clements